

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 32 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE R.BALIA.

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF WEALTH-TAX

Versus

JOGINDERSINGH LALSINGH

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Appearance:

MR MIHIR JOSHI, instructed by  
MR MANISH R BHATT for Petitioner

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CORAM : MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE R.BALIA.

Date of decision: 27/02/97

ORAL JUDGEMENT (Per Rajesh Balia,J.)

The following question of law arising out of the Tribunal's order in ITA 433/Ahd/78-79 has been referred to this Court for opinion alongwith the statement of case submitted at the instance of the revenue pertaining to the assessment of wealth of respondent for Assessment Years 72-73 to 74-75.

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the sums deleted in the income tax proceedings were not liable to be included in the wealth of the assessee for the assessment year in question"?

Heard learned Counsel for the Revenue.

No one appears for the assessee.

From the statement of fact it appears that the assessee had borrowed amounts of Rs. 39,200/- in the first year and Rs. 43,200 in each of the two subsequent years from his wife and son, which were explained to be prize money received by wife and son respectively. The three amounts were added to the wealth of the assessee in respect of respective assessment years by treating the same as part of assessee's wealth on the ground that for the assessment year 70-71, the alleged prize money received by wife and son was held to be income of the assessee from undisclosed sources and not of the wife and son.

The additions in wealth of the assessee for the three years aforesaid were deleted on the sole ground that additions made in the income of the assessee for the year 1970-71 had been deleted by the Tribunal vide its order dated 21st November, 1979 in I.T Appeal No.433/Ahd/78-79. It is in these circumstances that the aforesaid question has been referred to us. It has been brought to our notice that the deletion of the alleged prize money received by wife and husband in the account year relevant to assessment year 1970-71 by the aforesaid order of the Tribunal was made subject matter of Reference in I.T.R No. 407/81. The said deletion has since been held to be not sustainable by decision in I.T Reference No.407/81 - CIT Vs. Yoginder Singh Lal Singh on 27th Sept. 1995 and therefore, foundation for deleting the additions made in the wealth tax for the assesment years in question by the Tribunal does not survive. This position appears to be correct. In that view of the matter, the question referred to us has to be answered in the negative - that is to say, in favour of the revenue and against the assessee. The Tribunal shall have to decide the question of additions made by the Income Tax Officer afresh in accordance with law and on merits for each assessment years. No costs.

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